

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

United States of America,  
Plaintiff,  
v.  
Leon Benzer,  
Defendant.

Case No. 2:13-cr-174-JAD-CWH

**Order Granting as Unopposed the  
Government's Motion in Limine  
[Doc. 28]**

Leon Benzer faces charges of tax evasion and employment tax evasion under 18 U.S.C. § 2 and 26 U.S.C. § 7201. The government has moved in limine for an order from the Court precluding the use of FBI interview summaries and IRS memoranda of interviews (collectively, "Interview Summaries"). They argue that these materials "are not statements of the person interviewed under the Jencks Act, and [seek] to preclude the defense from introducing the contents of the Interview Summaries to impeach witnesses during cross examination, publishing the contents of the Interview Summaries to the jury, or otherwise suggesting to the jury that the Interview Summaries are statements of the witnesses who did not write or adopt them." Doc. 28 at 1.<sup>1</sup>

The motion in limine was filed seven months ago, and Benzer has filed no opposition. Under Nevada Local Criminal Rule 47-9, "The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion."<sup>2</sup> Benzer's silence on this matter constitutes his consent to granting the government's request.

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<sup>1</sup> According to the government, FBI Interview Summaries are commonly known as "Form 302s." IRS memoranda of interviews are commonly known as "MOIs." Doc. 28 at 1. The government concedes that in circumstances apparently not present in this case, Form 302s and MOIs could be considered statements of the witnesses—such as if the witnesses had reviewed and adopted them. Doc. 28 at 2.

<sup>2</sup> Nev. Loc. Crim. R. 47-9.

**Conclusion**

**IT IS THEREFORE ORDERED** that the Government's Motion in Limine Regarding Use of Interview Summaries by the Defense [**Doc. 28**] is **GRANTED** as unopposed.

DATED: August 26, 2014.

  
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JENNIFER A. DORSEY  
UNITED STATES DISTRICT JUDGE